
By: **Delegate Arnick**
Introduced and read first time: January 16, 2004
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Custodial Interrogation - Capital Offenses -**
3 **Electronic Recordation**

4 FOR the purpose of requiring a custodial interrogation in cases involving a capital
5 offense to be electronically recorded under certain circumstances; requiring a
6 police officer to advise a certain individual of certain rights and warnings at a
7 certain time; defining certain terms; providing for a delayed effective date; and
8 generally relating to electronic recordings of custodial interrogations in cases
9 involving a capital offense.

10 BY repealing and reenacting, with amendments,
11 Article - Criminal Procedure
12 Section 2-101
13 Annotated Code of Maryland
14 (2001 Volume and 2003 Supplement)

15 BY adding to
16 Article - Criminal Procedure
17 Section 2-401 to be under the new subtitle "Subtitle 4. Custodial Interrogation"
18 Annotated Code of Maryland
19 (2001 Volume and 2003 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article - Criminal Procedure**

23 2-101.

24 (a) In this title the following words have the meanings indicated.

25 (B) "CUSTODIAL INTERROGATION" MEANS ANY INTERROGATION BY A POLICE
26 OFFICER IN WHICH THE INDIVIDUAL BEING INTERROGATED IS NOT FREE TO LEAVE
27 A PLACE OF DETENTION WHEN A QUESTION IS ASKED THAT IS DESIGNED TO ELICIT
28 AN INCRIMINATING RESPONSE.

1 [(b)] (C) "Emergency" means a sudden or unexpected happening or an
2 unforeseen combination of circumstances that calls for immediate action to protect
3 the health, safety, welfare, or property of a person from actual or threatened harm or
4 from an unlawful act.

5 (D) "PLACE OF DETENTION" MEANS A FACILITY UNDER THE CONTROL OF A
6 LAW ENFORCEMENT UNIT.

7 [(c)] (E) "Police officer" means a person who in an official capacity is
8 authorized by law to make arrests and is:

9 (1) a member of the Department of State Police;

10 (2) a member of the Police Department of Baltimore City;

11 (3) a member of the Baltimore City School Police Force;

12 (4) a member of the police department, bureau, or force of a county;

13 (5) a member of the police department, bureau, or force of a municipal
14 corporation;

15 (6) a member of the Maryland Transit Administration Police Force,
16 Maryland Port Administration Police Force, or Maryland Transportation Authority
17 Police Force;

18 (7) a member of the University of Maryland Police Force or Morgan State
19 University Police Force;

20 (8) a special police officer who is appointed to enforce the law and
21 maintain order on or protect property of the State or any of its units;

22 (9) a member of the Department of General Services security force;

23 (10) the sheriff of a county whose usual duties include the making of
24 arrests;

25 (11) a regularly employed deputy sheriff of a county who is compensated
26 by the county and whose usual duties include the making of arrests;

27 (12) a member of the Natural Resources Police Force of the Department of
28 Natural Resources;

29 (13) an authorized employee of the Field Enforcement Division of the
30 Comptroller's Office;

31 (14) a member of the Maryland-National Capital Park and Planning
32 Commission Park Police;

33 (15) a member of the Housing Authority of Baltimore City Police Force;

- 1 (16) a member of the Crofton Police Department;
- 2 (17) a member of the WMATA Metro Transit Police, subject to the
3 jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan
4 Area Transit Authority Compact, which is codified at § 10-204 of the Transportation
5 Article;
- 6 (18) a member of the Internal Investigative Unit of the Department;
- 7 (19) a member of the State Forest and Park Service Police Force of the
8 Department of Natural Resources;
- 9 (20) a member of the Department of Labor, Licensing, and Regulation
10 Police Force; or
- 11 (21) a member of the Washington Suburban Sanitary Commission Police
12 Force.

13 SUBTITLE 4. CUSTODIAL INTERROGATION.

14 2-401.

15 (A) IN A CRIMINAL INVESTIGATION INVOLVING A CRIME THAT IS A CAPITAL
16 OFFENSE, A CUSTODIAL INTERROGATION AND ANY ADVISEMENT OR WAIVER OF
17 RIGHTS UNDER SUBSECTION (B) OF THIS SECTION SHALL BE ELECTRONICALLY
18 RECORDED WHEN QUESTIONING OCCURS AT A PLACE OF DETENTION, UNLESS:

- 19 (1) THERE IS A LACK OF PROPER EQUIPMENT; OR
- 20 (2) TIME IS OF THE ESSENCE.

21 (B) SUBJECT TO SUBSECTION (A) OF THIS SECTION, BEFORE A CUSTODIAL
22 INTERROGATION BEGINS, A POLICE OFFICER SHALL ADVISE THE INDIVIDUAL BEING
23 QUESTIONED OF THE FOLLOWING RIGHTS AND WARNINGS:

- 24 (1) THE INDIVIDUAL HAS THE RIGHT TO REMAIN SILENT;
- 25 (2) ANYTHING THE INDIVIDUAL SAYS MAY BE USED AGAINST THE
26 INDIVIDUAL IN A COURT OF LAW;
- 27 (3) THE INDIVIDUAL HAS THE RIGHT TO HAVE AN ATTORNEY AND TO
28 HAVE THE ATTORNEY PRESENT WITH THE INDIVIDUAL DURING INTERROGATION;
29 AND
- 30 (4) IF THE INDIVIDUAL IS UNABLE TO AFFORD AN ATTORNEY, THE
31 INDIVIDUAL HAS THE RIGHT TO HAVE AN ATTORNEY APPOINTED TO REPRESENT THE
32 INDIVIDUAL.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2005.

